428A.11 Housing improvement areas; definitions. (amended 2010 legislative session - effective July 1, 2010)

Subdivision 1. **Applicability.** As used in sections <u>428A.11</u> to <u>428A.20</u>, the terms defined in this section have the meanings given them.

- Subd. 2. City. "City" means a home rule charter or statutory city.
- Subd. 3. **Enabling ordinance.** "Enabling ordinance" means the ordinance adopted by the city council establishing the housing improvement area.
- Subd. 4. **Housing improvements.** "Housing improvements" has the meaning given in the city's enabling ordinance. Housing improvements may include improvements to common elements of a condominium or other common interest community.
- Subd. 5. **Housing improvement area.** "Housing improvement area" means a defined area within the city where housing improvements are made or constructed and the costs of the improvements are paid in whole or in part from fees imposed within the area.
- Subd. 6. **Housing unit.** "Housing unit" means real property and improvements thereon consisting of a one-dwelling unit, or an apartment or unit as described in chapter 515, 515A, or 515B, respectively, that is occupied by a person or family for use as a residence.
- Subd. 7. **Authority.** "Authority" means an economic development authority or housing and redevelopment authority created pursuant to section <u>469.003</u>, <u>469.004</u>, or <u>469.091</u> or another entity authorized by law to exercise the powers of an authority created pursuant to one of those sections.
- Subd. 8. **Implementing entity.** "Implementing entity" means the city or authority designated in the enabling ordinance as responsible for implementing and administering the housing improvement area.

History: 1996 c 471 art 8 s 7; 1999 c 11 art 3 s 13,14; 2000 c 490 art 11 s 2,3

428A.12 Petition required.

No action may be taken under sections <u>428A.13</u> and <u>428A.14</u> unless owners of 50 percent or more of the housing units that would be subject to fees in the proposed housing improvement area file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken under section <u>428A.14</u> to impose a fee unless owners of 50 percent or more of the housing units subject to the proposed fee file a petition requesting a public hearing on the proposed fee with the city clerk or other appropriate official.

History: 1996 c 471 art 8 s 8

428A.13 Establishment of housing improvement area.

Subdivision 1. **Ordinance.** The governing body of the city may adopt an ordinance establishing one or more housing improvement areas. The ordinance must specifically describe the portion of the city to be included in the area, the basis for the imposition of the fees, and the number of years the fee will be in effect. In addition, the ordinance must include findings that without the housing improvement area, the proposed improvements could not be made by the condominium associations or housing unit owners, and the designation is needed to maintain and preserve the housing units within the housing improvement area. The ordinance shall designate the implementing entity. The ordinance may not be adopted until a public hearing has been held regarding the ordinance. The ordinance may be amended by the governing body of the city, provided the governing body complies with the public hearing notice provisions of subdivision 2. Within 30 days after adoption of the ordinance under this subdivision, the governing body shall send a copy of the ordinance to the commissioner of revenue.

- Subd. 2. **Public hearing.** The notice of public hearing must include the time and place of hearing, a map showing the boundaries of the proposed area, and a statement that all persons owning housing units in the proposed area that would be subject to a fee for housing improvements will be given an opportunity to be heard at the hearing. Notice of the hearing must be given by publication in the official newspaper of the city. The public hearing must be held at least seven days after the publication. Not less than ten days before the hearing, notice must also be mailed to the owner of each housing unit within the proposed area. For the purpose of giving mailed notice, owners are those shown on the records of the county auditor. Other records may be used to supply the necessary information. At the public hearing a person owning property in the proposed housing improvement area may testify on any issues relevant to the proposed area. The hearing may be adjourned from time to time. The ordinance establishing the area may be adopted at any time within six months after the date of the conclusion of the hearing by a vote of the majority of the governing body of the city.
- Subd. 3. **Proposed housing improvements.** At the public hearing held under subdivision 2, the proposed implementing entity shall provide a preliminary listing of the housing improvements to be made in the area. The listing shall identify those improvements, if any, that are proposed to be made to all or a portion of the common elements of a condominium. The listing shall also identify those housing units that have completed the proposed housing improvements and are proposed to be exempted from a portion of the fee. In preparing the list the proposed implementing entity shall consult with the residents of the area and the condominium associations.
- Subd. 4. **Benefit; objection.** Before the ordinance is adopted or at the hearing at which it is to be adopted, the owner of a housing unit in the proposed housing improvement area may file a written objection with the city clerk asserting that the owner's property should not be included in the area or should not be subjected to a fee and objecting to the inclusion of the housing unit in the area, for the reason that the property would not benefit from the improvements. The governing body shall make a determination of the objection within 60 days of its filing. Pending its determination, the governing body may delay adoption of the ordinance or it may

adopt the ordinance with a reservation that the landowner's property may be excluded from the housing improvement area or fee when the determination is made.

Subd. 5. **Appeal to district court.** Within 30 days after the determination of the objection, any person aggrieved, who is not precluded by failure to object before or at the hearing, or whose failure to object is due to a reasonable cause, may appeal to the district court by serving a notice upon the mayor or city clerk. The notice shall be filed with the court administrator of the district court within ten days after its service. The city clerk shall furnish the appellant a certified copy of the findings and determination of the governing body. The court may affirm the action objected to or, if the appellant's objections have merit, modify or cancel it. If the appellant does not prevail upon the appeal, the costs incurred are taxed to the appellant by the court and judgment entered for them. All objections are deemed waived unless presented on appeal.

History: 1996 c 471 art 8 s 9; 2000 c 490 art 11 s 4,5

428A.14 Improvement fees authority; notice and hearing.

Subdivision 1. **Authority.** Fees may be imposed by the implementing entity on the housing units within the housing improvement area at a rate, term, or amount sufficient to produce revenue required to provide housing improvements in the area to reimburse the implementing entity for advances made to pay for the housing improvements or to pay principal of, interest on, and premiums, if any, on bonds issued by the implementing entity under section 428A.16. The fee can be imposed on the basis of the tax capacity of the housing unit, or the total amount of square footage of the housing unit, or a method determined by the council and specified in the resolution. Before the imposition of the fees, a hearing must be held and notice must be published in the official newspaper at least seven days before the hearing and shall be mailed at least seven days before the hearing to any housing unit owner subject to a fee. For purposes of this section, the notice must also include:

- (1) a statement that all interested persons will be given an opportunity to be heard at the hearing regarding a proposed housing improvement fee;
- (2) the estimated cost of improvements including administrative costs to be paid for in whole or in part by the fee imposed under the ordinance;
- (3) the amount to be charged against the particular property;
- (4) the right of the property owner to prepay the entire fee;
- (5) the number of years the fee will be in effect; and
- (6) a statement that the petition requirements of section <u>428A.12</u> have either been met or do not apply to the proposed fee. Within six months of the public hearing, the implementing entity may adopt a resolution imposing a fee within the area not exceeding the amount expressed in the notice issued under this section.

Prior to adoption of the resolution approving the fee, the condominium associations located in the housing improvement area shall submit to the implementing entity a financial plan prepared by an independent third party, acceptable to the implementing entity and associations, that provides for the associations to finance maintenance and operation of the common elements in the condominium and a long-range plan to conduct and finance capital improvements.

Subd. 2. **Levy limit.** Fees imposed under this section are not included in the calculation of levies or limits on levies imposed under any law or charter.

History: 1996 c 471 art 8 s 10; 2000 c 490 art 11 s 6

428A.15 Collection of fees.

The implementing entity may provide for the collection of the housing improvement fees according to the terms of section 428A.05.

History: 1996 c 471 art 8 s 11; 2000 c 490 art 11 s 7

428A.16 Bonds.

At any time after a contract for the construction of all or part of an improvement authorized under sections <u>428A.11</u> to <u>428A.20</u> has been entered into or the work has been ordered, the implementing entity may issue obligations in the amount it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making the improvement, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvement or the financing.

The obligations are payable primarily out of the proceeds of the fees imposed under section 428A.14, or from any other special assessments or revenues available to be pledged for their payment under charter or statutory authority, or from two or more of those sources. The governing body of the city, or if the governing bodies are the same or consist of identical membership, the authority may, by resolution adopted prior to the sale of obligations, pledge the full faith, credit, and taxing power of the city to bonds issued by it to ensure payment of the principal and interest if the proceeds of the fees in the area are insufficient to pay the principal and interest. The obligations must be issued in accordance with chapter 475, except that an election is not required, and the amount of the obligations are not included in determination of the net debt of the city under the provisions of any law or charter limiting debt.

History: 1996 c 471 art 8 s 12; 2000 c 490 art 11 s 8

428A.17 Advisory board.

The implementing entity may create and appoint an advisory board for the housing improvement area in the city to advise the implementing entity in connection with the planning and construction of housing improvements. In appointing the board, the implementing entity shall consider for membership members of condominium associations located in the housing

improvement area. The advisory board shall make recommendations to the implementing entity to provide improvements or impose fees within the housing improvement area. Before the adoption of a proposal by the implementing entity to provide improvements within the housing improvement area, the advisory board of the housing improvement area shall have an opportunity to review and comment upon the proposal.

History: 1996 c 471 art 8 s 13; 2000 c 490 art 11 s 9

428A.18 Veto powers.

Subdivision 1. **Notice of right to file objections.** The effective date of any ordinance or resolution adopted under sections <u>428A.13</u> and <u>428A.14</u> must be at least 45 days after it is adopted. Within five days after adoption of the ordinance or resolution, a summary of the ordinance or resolution shall be mailed to the owner of each housing unit included in the multiunit housing improvement area. The mailing shall include a notice that owners subject to a fee have a right to veto the ordinance or resolution by filing the required number of objections with the city clerk before the effective date of the ordinance or resolution and that a copy of the ordinance or resolution is on file with the city clerk for public inspection.

Subd. 2. **Requirements for veto.** If residents of 45 percent or more of the housing units in the area subject to the fee file an objection to the ordinance adopted by the city under section 428A.13 with the city clerk before the effective date of the ordinance, the ordinance does not become effective. If owners of 45 percent or more of the housing units' tax capacity subject to the fee under section 428A.14 file an objection with the city clerk before the effective date of the resolution, the resolution does not become effective.

History: 1996 c 471 art 8 s 14

428A.19 Annual reports.

Each condominium association located within the housing improvement area must, by August 15 annually, submit a copy of its audited financial statements to the implementing entity. The city may also, as part of the enabling ordinance, require the submission of other relevant information from the associations.

History: 1996 c 471 art 8 s 15; 2000 c 490 art 11 s 10

428A.20 Special assessments.

Within a housing improvement area, the governing body of the city may, in addition to the fee authorized in section <u>428A.14</u>, special assess housing improvements to benefited property. The governing body of the city may by ordinance adopt regulations consistent with this section.

History: 1996 c 471 art 8 s 16

428A.21 DEADLINE FOR HOUSING IMPROVEMENT DISTRICTS UNDER GENERAL LAW.

The establishment of a new housing improvement area after June 30, 2013, requires enactment of a special law authorizing the establishment of the area.

History: 1996 c 471 art 8 s 17; 2000 c 490 art 11 s 11; 2005 c 152 art 1 s 11; 2009 c 88 art 2 s 30